

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MIA COY CAMPBELL,

Movant,

vs.

No. CV 20-00253 RB/JHR
No. CR 15-03947 RB

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

THIS MATTER is before the Court on the handwritten letter from Movant Mia Coy Campbell filed March 19, 2020. (CV Doc. 1; CR Doc. 133.) The Court will dismiss the motion under Federal Rule of Civil Procedure 41(b) for failure to comply with Court Orders and failure to prosecute this proceeding. Also pending before the Court is the third motion for extension of time filed on October 29, 2020. (CV Doc. 8.) The Court will deny Campbell's third motion for extension of time.

Campbell appears to seek to challenge his conviction and sentence in CR 15-3947. (CV Doc. 1 at 1; CR Doc. 133 at 1.) On March 23, 2020, the Court notified Campbell that, pursuant to *Castro v. United States*, 540 U.S. 375 (2003), it intended to recharacterize his filing as a motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255. (CV Doc. 3.) In the March 23, 2020 Order, the Court afforded Campbell the opportunity to withdraw or amend his filing. (*Id.* at 1–2.)

Campbell responded that he intended to file a § 2255 motion, but that he was unable to do so at this time due to lockdown conditions from the COVID-19 pandemic. (CV Doc. 4.) Based on Campbell's Response, the Court granted Campbell a 90-day extension of time to file his § 2255 motion on May 21, 2020. (CV Doc. 5.) On August 21, 2020, Campbell filed his second motion

seeking an additional 60 days to file his §2255 motion. (CV Doc. 6.) On August 27, 2020, the Court granted him a second extension of time and notified him that no further extensions would be granted. (CV Doc. 7.) The Order also advised Campbell that if he did not comply with the Order, his case would be dismissed pursuant to Fed. R. Civ. P. 41(b). (*Id.*) Campbell then filed his third motion for an extension of time on October 29, 2020. (CV Doc. 8.)

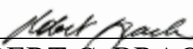
The Court previously granted Campbell two extensions of time to comply with the order to amend his motion or withdraw it pursuant to *Castro*. (CV Doc. 3.) More than a year has passed since the Court entered the March 23, 2020 Order, and Campbell has not filed an amended § 2255 motion nor advised the Court that he is withdrawing his original filing. Nor has Campbell communicated with the Court since October 2020.

The Court may dismiss an action under Rule 41(b) for failure to prosecute, to comply with the rules of procedure, or to comply with court orders. *See Olsen v. Mapes*, 333 F.3d 1199, 1204, n.3 (10th Cir. 2003). Therefore, the Court will dismiss the motion without prejudice pursuant to Rule 41(b) for failure to comply with the Court's March 23, 2020, May 21, 2020, and August 27, 2020 Orders and failure to prosecute this proceeding.

IT IS ORDERED:

(1) Movant Mia Coy Campbell's third motion for extension of time (CV Doc. 8) is **DENIED**; and

(2) the handwritten letter motion filed March 19, 2020 (CV Doc. 1; CR Doc. 133) is **DISMISSED without prejudice** under Fed. R. Civ. P. 41(b).



ROBERT C. BRACK
SENIOR U.S. DISTRICT JUDGE